

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

THE ESTATE OF ETHAN AUSTIN
MURRAY, by and through its personal
representative, Justine L. Murray, JUSTINE L.
MURRAY, in her individual capacity, and
MARK JENTSCH, in his individual capacity,

Plaintiffs,

v.

SPOKANE COUNTY; and JOSEPH M.
WALLACE, in his individual capacity,

Defendants.

Case No.:

**COMPLAINT FOR DAMAGES FOR
VIOLATIONS OF CIVIL RIGHTS (42
U.S.C. § 1983) AND FOR THE STATE
TORT OF NEGLIGENCE**

(JURY DEMAND)

Plaintiffs, through undersigned counsel, hereby allege:

INTRODUCTION

This is a civil action brought by the Estate of Ethan Austin Murray, Justine L. Murray, and Mark Jentsch, related to the officer-involved shooting death of an unarmed mentally ill man, Ethan Austin Murray (“Ethan”), in Spokane Valley, Washington on May 4, 2019.

On that date, Defendant Joseph M. Wallace, a law enforcement officer employed by Defendant Spokane County, contacted Ethan for a “disorderly person” call near an apartment complex. Defendant Wallace needlessly pursued Ethan into a wooded area more than one hundred yards away from the apartment buildings and any citizens. At no time did Defendant

Wallace, a Marine veteran with special forces experience and current member of Defendant County's SWAT team, utilize any de-escalation techniques to diffuse the situation. Further, Defendant Wallace did not possess a taser at the time of the incident and, instead, relied solely on lethal force.

Ultimately, Defendant Wallace shot Ethan five times, sending Ethan tumbling to the foot of an embankment where he suffered and died. Defendant Wallace justified the shooting by claiming Ethan had threatened Defendant Wallace with a knife. A knife was found at the scene and marked as evidence, only to be later removed from evidence without further investigation when another Defendant County employee claimed it belonged to him and had fallen from his pants while performing scene security after the shooting.

Defendant Wallace's official report was released 30 days after the shooting and prepared with the assistance of a criminal defense attorney. Material differences between Defendant Wallace's statement and forensic evidence undermine the credibility of the statement. Even if Defendant Wallace's statements were entirely reliable, they demonstrate a profoundly inept approach to the final encounter that led directly to Ethan's death.

In short, there was no justification for Defendant Wallace chasing the unarmed, sober, and obviously mentally ill Ethan into the woods, and no justification for shooting him to death.

I. PARTIES

1.1 Plaintiff Estate of Ethan Austin Murray ("Estate") was duly formed in Spokane County Superior Court (Cause No.: 20-4-00665-32) for the purpose of bringing this action and seeking redress for the death of Ethan Austin Murray. Plaintiff Justine L. Murray, in her representative capacity, is the duly-appointed personal representative of the Estate. As personal representative of the Estate, Ms. Murray is qualified to bring this action and assert all claims

1 alleged herein on behalf of the Estate, including all claims arising under 42 U.S.C. § 1983 and
2 for all damages suffered by all statutory beneficiaries provided for under RCW 4.20.020.

3 1.2 Plaintiff Justine L. Murray (“Justine”), in her individual capacity, is the mother
4 of Ethan Austin Murray. She is a resident of Sandpoint, Idaho. She is entitled to assert claims in
5 her individual capacity for the loss of society and companionship of her son under 42 U.S.C. §
6 1983 as well as Washington state laws including RCW 4.24.010.

7 1.3 Plaintiff Mark Jentsch (“Mark”), in his individual capacity, is the father of Ethan
8 Austin Murray. He is a resident of Chicago, Illinois. He is entitled to assert claims in his
9 individual capacity for the loss of society and companionship of his son under 42 U.S.C. §1983
10 as well as Washington state laws including RCW 4.24.010.

11 1.4 Defendant Spokane County (“Defendant County”) is an administrative and
12 political subdivision of Washington State, organized under Washington State law.

13 1.5 Defendant Joseph M. Wallace (“Defendant Wallace”) is a resident of the Eastern
14 District of Washington and, at all times relevant to this action, acted under color of state law and
15 as an agent of Defendant County.

16 **II. JURISDICTION AND VENUE**

17 2.1 This action is brought pursuant to 42 U.S.C. § 1983 for violations of the United
18 States Constitution and for the state law tort of negligence.

19 2.2 This Court has jurisdiction over these claims pursuant to 28 U.S.C §§ 1331, 1343,
20 and 1367.

21 2.3 Venue is appropriate in the United States District Court for the Eastern District
22 of Washington at Spokane pursuant to 28 U.S.C. § 1391 because the events giving rise to
23
24

1 Plaintiffs' claims occurred in this District and because Defendants reside and exist in this
2 District.

3 **III. PROCEDURAL REQUIREMENTS**

4 3.1 Plaintiffs provided Defendant County with notice of Plaintiffs' claims on May 7,
5 2020 and May 11, 2021 respectively, more than 60 days before filing this suit, satisfying the
6 waiver of sovereign immunity under state law. *See*, RCW 4.96.020.

7 **IV. FACTS**

8 4.1 At age nineteen, Plaintiff Justine Murray gave birth to her first and only son,
9 Ethan. Ethan's father was Mark Jentsch. Ethan was Mark's only son. Less than two years later,
10 Justine gave birth to Ethan's only sibling, his sister, Cora, Mark Jentsch's only daughter.

11 4.2 As a single working-class mother, Justine raised her children to respect police
12 and work hard.

13 4.3 Ethan was a smart, funny child who loved the outdoors.

14 4.4 Ethan began exhibiting symptoms of mental illness in high school and was later
15 diagnosed with schizoaffective disorder.

16 4.5 After earning a high school graduation equivalency degree, Ethan worked a series
17 of entry-level jobs, but continued to struggle with mental illness.

18 4.6 Over the next several years, Ethan cycled in and out of Justine's home in
19 Sandpoint, Idaho, always returning to Justine.

20 4.7 When Ethan was home, Justine helped him meet medical, employment, and other
21 basic needs.

22 4.8 When Ethan was away, Justine worried about him.
23
24

1 4.9 Justine dedicated herself to learning as much as she could about mental illness.
2 She founded a local campaign to bring greater attention and sensitivity to the community's
3 growing mental health crisis and the prejudice and challenges faced by people living with mental
4 illness.

5 4.10 In 2017, Ethan was arrested in Florida for a public disturbance related to his
6 mental illness. He was held for extended treatment, during which time he was regularly visited
7 by his maternal grandmother. Justine traveled to Florida to visit Ethan and stayed in touch with
8 phone calls and letters. Upon Ethan's release in November 2018, he again came home to Justine.

9 4.11 Ethan spent that winter in Sandpoint with Justine, going on hikes and making
10 plans for the future.

11 4.12 In February 2019, Ethan decompensated.

12 4.13 The last time Justine saw Ethan alive was in Sandpoint, Idaho, on March 13, 2019.

13 4.14 Perhaps because of his mental illness, Justine and Ethan were especially close
14 throughout Ethan's life. Justine always loved Ethan dearly. Having given birth to him at a young
15 age, and having raised him for many years, Justine thinks of herself as having grown up with
16 Ethan.

17 4.15 Mark Jentsch's only son was Ethan Austin Murray.

18 4.16 During his lifetime, Mark Jentsch regularly supported his son up until the age of
19 eighteen.

20 4.17 At age nineteen, Ethan came to live with Mark, who got his son a job at his
21 company, SECO Refrigeration, working alongside his father; unfortunately, Ethan did not enjoy
22 that type of work.

1 4.18 Mark asked Ethan what type of career he wanted, offered to send him to school
2 and to fund his education to accomplish Ethan's goals.

3 4.19 Ethan indicated that he would like a career in the culinary arts.

4 4.20 As a result, Mark made some calls to people he knew and took Ethan to Rick
5 Bayless and The Alinea Group, to show him what would be involved in establishing such a
6 career.

7 4.21 After learning the number of years it would take to become a professional chef,
8 Ethan told Mark that he would prefer to open his own restaurant and become a chef that way.
9 Unfortunately, the resources to undertake such an endeavor were not available to Ethan or Mark.

10 4.22 At that point, Ethan went to live in Sterling, Illinois with a step-grandmother and
11 kept in regular contact with Mark.

12 4.23 Later, Ethan decided to move out west and went to live with his mother Justine's
13 ex-husband on his property in Washington.

14 4.24 Ethan told his father, Mark, that he wanted to try and make it on his own in
15 Washington.

16 4.25 About two years prior to his death, Ethan came back to Illinois, in Humboldt Park,
17 and texted Mark that he wanted to see him.

18 4.26 Mark and Ethan spoke on the phone that afternoon, and Mark picked Ethan up
19 from Humboldt Park to take him to Logan Square.

20 4.27 Mark and Ethan had a serious discussion about how much they missed each other
21 and what both had been doing while they were apart.

22 4.28 Mark offered to get Ethan into an HRDI facility to get Ethan cleaned up and into
23 a job program.

1 4.29 Unfortunately, the HRDI program would not be available for Ethan for at least
2 four-to-six weeks; Mark wanted his son to stay with him but, unfortunately, that did not happen.

3 4.30 Ethan told Mark he had a friend in Jacksonville, Florida that had a job for him
4 and could assist in getting him into a treatment program, so Mark offered and purchased Ethan
5 a ticket to get him down to Florida.

6 4.31 While Ethan was in Florida, Mark continued to try and call his son. Unfortunately,
7 around that time, Ethan had some run-ins with the law during what appeared to be mental
8 breakdowns.

9 4.32 Mark left messages and told Ethan that if things did not go as planned in Florida,
10 he was welcome to return to Chicago so that Mark could try and get him into the HRDI program.

11 4.33 A little over a year prior to his death, Mark spoke with Ethan. Ethan discussed
12 coming back to the Chicago area.

13 4.34 At that time, Mark had some serious conversations with Ethan regarding his run-
14 ins with the law in Florida. They discussed how Ethan was going to try and improve his life and
15 rectify the situations in Florida.

16 4.35 Mark had been counseled that he needed to use tough love with Ethan, otherwise
17 he was never going to make the necessary changes in his life on his own.

18 4.36 After that conversation, Ethan stopped answering Mark's calls, but Mark
19 continued to hear from medical facilities informing him that Ethan had been admitted to hospitals
20 on a short-term basis for treatment.

21 4.37 Mark attempted to have the hospitals admit or commit Ethan for long-term
22 treatment, but they informed Mark that they could not do so without Ethan's consent.

1 4.38 From that time forward, up until the point of his death, Mark continued to try and
2 search for Ethan. But, at that point, Ethan had no phone and had become homeless while living
3 out west. Since that time and up until the present day, Mark thinks about Ethan and misses him.

4 **Ethan's Contacts with Law Enforcement on May 2, 2019**

5 4.39 Around noon on May 2, 2019, approximately 53 hours before he was killed by
6 Defendant Wallace, Ethan was contacted by officers employed by Defendant County and the
7 Spokane Police Department (SPD) for a reported disturbance at a local diner.

8 4.40 Officers quickly determined that Ethan had difficulty communicating and was
9 showing obvious signs of mental distress. The written report for this contact indicates that Ethan
10 put his own money in his mouth and started "*growling and chewing the bills.*" The officers noted
11 that Ethan was "*rambling*" and that he "*would speak normally then completely go off track and*
12 *start talking about the government following him His demeanor was 'off' and he appeared*
13 *unstable. . .*"

14 4.41 Ethan cooperated as officers handcuffed and removed him from the diner,
15 identified and arrested him on a misdemeanor warrant, and booked him into the Spokane County
16 jail.

17 4.42 Records for this contact do not indicate that Ethan was either armed or aggressive.

18 4.43 Records for this contact also do not indicate that Ethan was in possession of
19 sunglasses, the significance of which will be addressed below.

20 **Ethan's Contacts with Law Enforcement on May 3, 2019**

21 4.44 Having been released from jail for unknown reasons, at 10:45 a.m. the following
22 day, May 3, 2019, approximately 31 hours before the shooting, Ethan was contacted by multiple
23 SPD officers for a reported disturbance in an alley of a residential neighborhood.
24

1 4.45 Again, officers quickly determined that Ethan had difficulty communicating and
2 was showing obvious signs of mental distress. Their written report described Ethan as *“having*
3 *a conversation with the air. I asked him who he was talking to, and he responded ‘his friend.’*
4 *. . Ethan continued to talk to himself. . .”*

5 4.46 The officers identified Ethan and asked him to leave the area; Ethan complied.

6 4.47 Records for this contact do not indicate that Ethan was armed, aggressive, or in
7 possession of sunglasses.

8 4.48 Later that evening, approximately 20 hours before the shooting, Ethan was again
9 contacted by multiple SPD officers for causing a disturbance in a local park.

10 4.49 Again, officers quickly determined that Ethan had difficulty communicating and
11 was showing obvious signs of mental distress. One Officer’s written report described Ethan as
12 having *“writing all over his torso, arms and hands, and he removed a ballpoint pen from his*
13 *pocket and continued to write on his hand. He showed me what he was writing, but he and the*
14 *writing made no sense.”*

15 4.50 Officers identified Ethan, located non-extraditable and non-bookable warrants,
16 and released him at the scene.

17 4.51 Records for this contact do not indicate that Ethan was armed, aggressive, or in
18 possession of sunglasses.

19 **Ethan’s First Contact with Law Enforcement on May 4, 2019**

20 4.52 At 7:45 a.m. the following morning, May 4, 2019, Ethan was contacted by two
21 Defendant County employees, Deputies Thomas and Depriest, for a reported disturbance at a
22 construction site located approximately two blocks from the undeveloped lot where the shooting
23 would take place that afternoon, approximately 10 hours later.

1 4.53 These deputies also quickly determined that Ethan had difficulty communicating
2 and was showing obvious signs of mental distress. Deputy Thomas' written report described
3 Ethan as "*rambling and having a hard time sitting still*" and that Ethan "*responded to a question*
4 *about his phone number with a series of letters and numbers.*" He also noted that Ethan's "*hands*
5 *were constantly moving and it appeared he was having a hard time focusing on a task.*" The
6 officer also noted that Ethan was disheveled and disorganized.

7 4.54 Deputy Thomas noted that, after initially walking away, Ethan complied with
8 orders to stop: Ethan raised his hands, sat down on the ground, allowed himself and his
9 belongings to be searched, revealing no contraband.

10 4.55 After identifying Ethan and running his information through criminal justice
11 system databases, the deputies released Ethan from the scene.

12 4.56 Records for this contact do not indicate that Ethan was armed, aggressive, or in
13 possession of sunglasses.

14 **Ethan's Second Contact with Law Enforcement on May 4, 2019**

15 4.57 Several hours later, at 12:15 p.m., two other Defendant County employees,
16 Deputies Smith and Paynter, contacted Ethan for reported disturbances at an intersection and at
17 a nearby chain pizza restaurant in Millwood, Washington, approximately three miles from the
18 undeveloped lot where the shooting would take place at approximately 5:30 p.m. that same
19 afternoon.

20 4.58 The deputies also quickly determined that Ethan had difficulty communicating
21 and was showing obvious signs of mental distress. Deputy Paynter's written report described
22 Ethan as "*distracted and disconnected from our contact with him*" and noted that his clothes,
23 face, and hands were "*very dirty.*" Deputy Paynter noted that Ethan was not wearing shoes.

1 Written reports from both Deputies Smith and Paynter express awareness that Ethan's
2 appearance and behavior may have been the result of mental illness.

3 4.59 After initially crossing the street to avoid the deputies, Ethan stopped, complied,
4 and provided accurate identifying information when asked to do so by the deputies.

5 4.60 Records for this contact do not indicate that Ethan was armed, aggressive, or in
6 possession of sunglasses.

7 **Ethan's Third Contact with Law Enforcement on May 4, 2019**

8 4.61 Forty-five minutes later, at 1:00 p.m., approximately 4.5 hours before Ethan was
9 killed, Deputy Paynter was called back to the same neighborhood to re-contact Ethan, this time
10 for a reported disturbance in a nearby shop.

11 4.62 Deputy Paynter noted that Ethan "*appeared the same*": having difficulty
12 communicating, disheveled in appearance, and showing signs of mental illness.

13 4.63 Deputy Paynter's report indicated that he directed Ethan to return to "*where ever*
14 [sic] *he was staying.*"

15 4.64 Records for this contact do not indicate that Ethan was armed, aggressive, or in
16 possession of sunglasses.

17 **Ethan's Contact with Defendant Wallace on May 4, 2019**

18 4.65 At 5:26 p.m., two on-duty Defendant County employees, Defendant Wallace and
19 Deputy Criswell, responded to a "disorderly person" call at the Parkside at Mirabeau apartment
20 buildings in Spokane Valley, Washington.

21 4.66 The 911 caller indicated that a shirtless man was running around the apartment
22 buildings' communal grass yard and that minors were in the vicinity.
23
24

1 4.67 The untrained civilian 911 caller speculated that the man, Ethan, was intoxicated.
2 However, **Ethan was mentally ill—not intoxicated**. The Washington State Patrol Crime Lab
3 performed a post-mortem toxicology test, proving that Ethan had no intoxicating substances
4 whatsoever in his system.

5 4.68 The 911 caller also reported that Ethan **had not assaulted anyone and did not**
6 **appear to be armed**. The facts reported by the caller also did not suggest that Ethan was
7 committing any crime. Rather, the caller suggested that Ethan was disturbing neighborhood
8 tranquility.

9 4.69 Based on the 911 call and an uncorroborated passing comment by an unidentified
10 woman, Defendant Wallace later wrote that he became concerned that Ethan’s running around
11 had “*potential[ly]*” threatened the minors.

12 4.70 Twelve minutes after the 911 call, Defendant Wallace and Deputy Criswell
13 arrived on scene and contacted Ethan near a chain link fence marking the rear boundary of the
14 apartment complex property.

15 4.71 The officers were located on the opposite side of the fence from Ethan. Both
16 officers were located on the west side (the apartment-side) of the chain link fence, while Ethan
17 was on the east side (in a large undeveloped lot where the shooting later occurred).

18 4.72 Both Deputy Criswell and Defendant Wallace noticed that Ethan had difficulty
19 communicating and was showing obvious signs of mental distress. Deputy Criswell’s written
20 report indicates that he immediately noticed Ethan’s “*unsteady gait*” and “*distant stare.*” When
21 Criswell attempted to make verbal contact and banged his flashlight on the fence to get Ethan’s
22 attention, Ethan did not respond. Criswell’s report also indicates that he noticed Ethan’s
23
24

1 “frenzied look” and “jittery” movements. Defendant Wallace’s written report indicates that he
2 noticed Ethan acting “erratically.”

3 4.73 In response to Criswell’s attempt to communicate by banging his flashlight on
4 the fence, Ethan put his sweatshirt hood up and continued walking south, parallel to the fence
5 line.

6 4.74 According to computer dispatch records, within ten seconds of Criswell’s attempt
7 to make verbal contact, Ethan turned away from the fence and began “walking east into the
8 woods” of the undeveloped lot, away from the officers, minors, and apartment buildings.

9 4.75 As Ethan walked away, Deputy Criswell and Defendant Wallace began to look
10 for a way to cross through the fence and pursue Ethan. The officers split up, traveling in opposite
11 directions along the fence looking for a way to cross over into the undeveloped lot.

12 4.76 According to dispatch records, over the following two minutes Deputy **Criswell**
13 **walked** north approximately 100 yards when he found a large hole in the fence where he could
14 **step** into the undeveloped lot. He eventually caught up to Defendant Wallace, by which time the
15 shooting was over.

16 4.77 At the same time, Defendant **Wallace ran** south approximately 100 yards, away
17 from his fellow officer, to a place where the bottom of the fence was bent up enough that he
18 could **crawl** beneath it.

19 4.78 Defendant Wallace’s written report indicates that he took these aggressive actions
20 due to his speculation that Ethan intended to walk all the way across the half-mile wide
21 undeveloped lot to attack unseen civilians in the public park on the far side.

22 4.79 Alone, and without probable cause that Ethan had done anything other than ignore
23 the officers, Defendant Wallace ran into the woods after Ethan.

The Scene of the Shooting

4.80 At all times material to this action, the undeveloped lot - the historic site of the Inland Empire Zoo - was approximately one-half-square-mile in size and contained sparsely wooded areas, large rocky outcroppings, and open fields. The undeveloped lot was bordered on all sides by a chain link fence.

4.81 The following image depicts the approximate layout of the lot and surrounding area, with the Parkside at Mirabeau apartment buildings marked in green, the chain link fence marked in yellow, location of the shooting in red, and the distance between the fence and the scene of the shooting (approximately 300-325 feet according to Google maps) marked in orange:



Image source: Google Maps, accessed 02/19/2021

4.82 The following image shows the approximate routes taken by the parties to the scene of the shooting, with the chain link fence marked in yellow, Ethan's route marked in green, Defendant Wallace's route marked in dark blue, Deputy Criswell's route marked in light blue, the location of the shooting marked in red, and the distance between the fence and scene of the shooting (approximately 300-325 feet according to Google maps) marked in orange:



Image source: Google Maps, accessed 02/19/2021

4.83 The following image shows the “*whispy tree*” (marked in red) where Defendant Wallace claims he and Ethan were standing when the shooting happened:

////

////

////

////

////



Image source: file "2019-10059590_428 Redacted" (Ethan's body redacted by black box).

The above image and many others from the scene show that Defendant Wallace's line of sight in and around the scene of the shooting was unobstructed and posed no significant obstruction for a reasonable officer, especially one with Wallace's highly specialized tactical training and experience.

The Shooting

4.84 According to computer dispatch records, the shooting unfolded in short order after Defendant Wallace began chasing Ethan into the woods:

5:41:20 p.m. "[Ethan] is running"
 5:41:24 p.m. "east up the hill"
 5:41:42 p.m. "almost with [Ethan]"
 5:42:03 p.m. "code"
 5:42:08 p.m. "threatening me, saying something in pocket"
 5:42:15 p.m. "shots fired"

4.85 Defendant Wallace shot Ethan at least five times: in Ethan's head, chest, and arms.

1 4.86 One bullet entered through the top of Ethan’s skull and passed **downward**
2 through his brain, exiting near Ethan’s left ear.

3 4.87 A second bullet entered through Ethan’s chest above his left nipple and passed
4 **downward** through his 5th rib, the upper and lower lobes of his left lung, and the outer surface
5 of the left ventricle of his heart, coming to rest in the lower rear chest cavity.

6 4.88 A third bullet entered through Ethan’s chest below his left nipple and passed
7 **downward** through his 6th rib, the lower lobe of his left lung, and the outer surface of the left
8 ventricle of his heart, exiting through his lower back.

9 4.89 A fourth bullet entered and passed **downward** through the upper half of Ethan’s
10 left arm.

11 4.90 After passing through Ethan’s arm, the fourth bullet re-entered Ethan’s body at
12 his left chest, passing **downward** through his 7th rib, the lower lobe of his left lung, stomach,
13 and left kidney, coming to rest in the skin of his lower back.

14 4.91 A fifth bullet entered and exited through Ethan’s left wrist, passing through skin,
15 muscle, and both the carpal and radius bones.

16 4.92 According to Deputy Criswell’s report, after receiving these injuries, Ethan was
17 still alive, making “*high pitched groans*” and “*visibly breathing*.” However, rather than provide
18 immediate first aid, Criswell and Defendant Wallace waited at the top of the rocky outcropping
19 for several minutes until a third officer arrived.

20 4.93 Eventually, Deputy Criswell and the third officer, Deputy West, approached and
21 handcuffed Ethan before providing any care.¹

22
23
24

¹ What Defendant Wallace did at the top of the outcropping while Deputies Criswell and West approached Ethan is unknown.

1 4.94 Medical professionals declared Ethan dead at 6:01 p.m., approximately twenty
2 minutes after the shooting.

3 4.95 Prior to death, Ethan experienced terror, pain, and suffering on a scale that is
4 impossible to quantify. He was chased through the woods by strangers, shot in the head, chest
5 and arms, tumbled head over heels down a rocky outcropping, and cried out for help in a pool of
6 his own blood, before being handcuffed like a criminal and dying. In a half hour, Ethan endured
7 more trauma than any person should ever experience in a lifetime.

8 **Defendant Wallace’s Evolving Statements about “The Knife”**

9 4.96 Deputy Criswell’s report indicates that, immediately after the shooting,
10 Defendant Wallace claimed Ethan pulled “*a knife or something*” (emphasis added). This was -
11 apparently - the only public statement Defendant Wallace made about the shooting for the next
12 30 days.

13 4.97 Finally, on June 4, 2019, and only after investigators provided him with special
14 access to privileged investigative materials (including dispatch records and audio recordings of
15 radio traffic from the shooting), which were then unavailable to any other party or the public,
16 Defendant Wallace issued his official written statement about the shooting, prepared with the
17 assistance of criminal defense counsel.

18 4.98 The written statement contained none of the “*or something*” uncertainty about
19 why Defendant Wallace had killed Ethan. In its place were a series of certain and specific details
20 regarding “*the knife*”:

21 *It had a black **handle** which I recognized as that of a **pocket knife**.*

22 *I noticed a **silver or grey** glistening reminiscent of a **blade** from the end of the*
23 *black **handle** . . .*

24 *. . . his right hand still attempting to get **the knife** out of his pocket.*

1 *Suddenly, [Ethan] pulled **the knife** out of his pocket, and I saw a flash of what*
 2 *appeared to be silver or gray which I believed was **the blade of the knife**.*

3 ***He held it in his right clenched fist with the blade protruding from the bottom***
 4 ***of his fist.***

5 *... clenching **the knife** with **the blade** facing toward me ...*

6 *I fired until [Ethan] stopped advancing towards me with **the knife** ...*

7 *I told [Deputy Criswell] I was OK, but that [Ethan] had a **knife**.*

8 *I was concerned [Ethan] still had **the knife** in his hands ...*

(Emphasis added).

9 4.99 However, after an exhaustive search of the scene by dozens of officers, “**the**
 10 **knife**” was never located. No weapons were found on or anywhere near Ethan’s body, nor
 11 anywhere near the “*whispy tree*,” nor anywhere near the slope between the tree and Ethan’s
 12 body.²

13 **Defendant Wallace’s Blundered Approach**

14 4.100 Investigators never interviewed Defendant Wallace.

15 4.101 However, in a brief follow-up to his belated written statement, investigators asked
 16 Defendant Wallace to indicate where he and Ethan were standing at the moment of the shooting.
 17 Using a black pen, Defendant Wallace marked his purported location with an “X” and Ethan’s
 18 with an “O” on the following three photographs (“*whispy tree*” in red), indicating that the
 19 shooting occurred while the two were within extraordinary proximity to each other:
 20

21 ² Although investigators found no knife during the initial search, the next morning they did find a knife:
 22 approximately 100 feet away from Ethan’s body, on the path investigators believed the parties had taken from the
 23 fence line to the scene of the shooting, a black handled folding knife was found and taken into evidence under “marker
 24 1.” However, a few days later, a Defendant County agent, Deputy Sullivan, submitted a sworn written statement
 claiming that the knife found at the scene was his, that it was not related to the shooting in any way, that he had
 accidentally dropped it while providing security during the night following the shooting, and that he had searched
 for it before leaving the scene. Despite the fact that this was Sullivan’s second sworn statement and that it was
materially inconsistent with his first sworn statement on all details regarding the knife, incredibly, investigators
 accepted it, **removed the knife from the chain of custody**, and returned it to Deputy Sullivan.



Image source: Plaintiffs' bate stamp "Spokane-Murray "000060"



Image source: Plaintiffs' bate stamp "Spokane-Murray "000060"



Image source: Plaintiffs' bate stamp "Spokane-Murray "000059"

4.102 Defendant Wallace's written statement suggests that he and Ethan came within such close proximity "*suddenly*" and **unintentionally**:

I took a different path around and up the rock hoping to cut [Ethan] off. Once I emerged on top of the rock I suddenly came face to face with [Ethan]. [Ethan] was approx[imately] 6 feet away from me. . .

. . . I had no way to back out or create distance between myself and [Ethan]. . . [Ethan] was so close to me that I had to hold my firearm close to my torso . . .

. . . He began inching his way around the [whispy tree] towards me . . . his right hand still attempting to get the knife out of his pocket . . .

. . . Now he was only approx. 5 feet away . . . Having no where to go, fearing for my life . . .

4.103 Thus, if Defendant Wallace's narrative about unintentionally coming so close to Ethan is accurate, then it was this blundered approach within feet of an agitated subject, along with Wallace's failure to leave himself an escape route, that proximately caused the shooting.

1 However, Defendant Wallace's narrative may not be accurate, as it is inconsistent with both his
2 recorded radio transmissions and his extraordinary level of tactical training and experience.

3 4.104 Defendant Wallace's recorded radio transmissions indicate he had a clear
4 understanding of Ethan's location, movements, and route **during the minute** leading up to the
5 shooting:

6 5:41:20 p.m. "[Ethan] is running"
7 5:41:24 p.m. "east up the hill"
8 5:41:42 p.m. "almost with [Ethan]"
9 5:42:03 p.m. "code"
10 5:42:08 p.m. "threatening me, saying something in pocket"
11 5:42:15 p.m. "shots fired"

12 These transmissions, combined with the wide open lines of sight in and around the scene of the
13 shooting, suggest that Wallace could not have accidentally come within feet of the person he was
14 actively pursuing without serious and inexcusable neglect.

15 4.105 Defendant Wallace's narrative about an unintentional close encounter is also
16 inconsistent with his specialized training and experience with Defendant County's Special
17 Weapons and Tactics ("SWAT") team, as an instructor with Defendant County's Reality Based
18 Training and Field Training Officer programs, and as an active-duty U.S. Marine assigned to a
19 special forces unit.

20 4.106 Despite the claim in Defendant Wallace's written statement about having
21 deployed de-escalation techniques "*on numerous occasions with great success*," his actions
22 leading up to the shooting demonstrate no awareness or skill in the subject. Chasing Ethan into
23 the woods, not waiting for cover, pulling out the gun, and shouting are all good examples of how
24 to increase the likelihood of violence during contact with a mentally ill subject. Defendant
Wallace failed to utilize the available time and space to de-escalate and failed to consider

1 strategic disengagement. Defendant Wallace's conduct in this case was grossly at odds with
 2 Defendant County's "De-Escalation" policy 464.6, which provides:

3 *Deputies should consider that taking no action or passively monitoring the*
 4 *situation may be the most reasonable response to a mental health crisis. . .*
 5 *. [Officers should:] . . . • Be patient, polite, calm, courteous and avoid*
 6 *overreacting. • Speak and move slowly and in a non-threatening manner. . . . •*
 7 *Provide for sufficient avenues of retreat or escape should the situation become*
 8 *volatile. Responding deputies generally should not: • Use stances or tactics that*
 9 *can be interpreted as aggressive. . . . Corner a person who is not believed to be*
 10 *armed, violent or suicidal. • Argue, speak with a raised voice or use threats to*
 11 *obtain compliance.*

8 4.107 In addition to the other failures that led to Ethan's death, Defendant Wallace was
 9 also inexplicably not carrying a non-lethal electroshock weapon (such as a Taser), a basic
 10 component of the less-than-lethal force compendium necessary to any law enforcement officer's
 11 ability to avoid unreasonable use of deadly force.

12 **A Homicide in Search of a Justification**

13 4.108 Given the notable absence of "*the knife*," investigators considered several
 14 alternative items in a search to justify Ethan's death.

15 4.109 One possibility considered by was a black cell phone that investigators reported
 16 finding near the chain link fence (evidence marker "2"). A second possibility was a black
 17 deodorant stick that investigators reported finding near Ethan's body (marker "3"). A third
 18 possibility was a black lighter that investigators reported finding on the slope of the rocky
 19 outcropping (marker "4"). A fourth possibility was a pen that investigators reported finding on
 20 the slope of the rocky outcropping (marker "5").

21 4.110 Ultimately, investigators settled on a pair of "*black wayfarer sunglasses*" that
 22 they reported finding near the "*whispy tree*" (marker "6"):
 23
 24



Image source: "2019-10059590_566"

4.111 Defendant County ultimately endorsed the sunglasses theory, overlooking Defendant Wallace's use of the terms "*knife*," "*blade*," or "*handle*" on 14 different occasions in his written statement as nothing more than a series of sincere mistakes.

4.112 Although Defendant Wallace's minute and repeated descriptions indicate that he was carefully watching "*the knife*," his statement does not indicate that Wallace saw or suspected that "*the knife*" may have been dropped or flung before, during, or after the shooting. In fact, Defendant Wallace told Deputy Criswell that Ethan still "*had a knife*" after rolling to the bottom of the slope, justifying the officers' failure to provide immediate first aid during the critical first minutes after the shooting. These facts are inconsistent with the theory that the sunglasses, still resting at the top of the slope, was the item Wallace claims to have seen in Ethan's hand before the shooting.

1 4.113 None of the written reports, body cam video, jail booking records, or 911 calls
2 from Ethan's several contacts with law enforcement in the days leading up to the shooting
3 indicate that Ethan, a homeless man who was not even wearing shoes when he was killed, was
4 in possession of sunglasses.

5 4.114 Plaintiffs do not concede that the sunglasses were associated with Ethan.

6 4.115 Under the totality of circumstances alleged herein, Defendant Wallace's use of
7 deadly force was unreasonable and excessive. Defendant Wallace's conduct showed reckless
8 disregard for Ethan's constitutional rights.

9 4.116 Under the totality of circumstances alleged herein, Defendant Wallace acted
10 intentionally, knowingly, recklessly, and/or maliciously in violation of Ethan's well-established
11 rights under the Fourth Amendment to the United States Constitution.

12 4.117 Under the totality of circumstances alleged herein, Defendant Wallace's pursuit
13 of Ethan and close-proximity approach on the rocky-outcropping was negligent and the
14 foreseeable and proximate cause of the damages indicated below.

15 4.118 Defendant Wallace's actions caused damages to Ethan, now actionable by his
16 Estate. Such damages include extreme pain, suffering, emotional and mental distress, and fear
17 of impending doom, as well as his death and the loss of enjoyment of his life.

18 4.119 Defendant Wallace's actions in shooting and killing Ethan also deprived
19 Plaintiffs, Justine L. Murray and Mark Jentsch, of the society and companionship of their son,
20 in violation of their Fourteenth Amendment Rights under the United States Constitution,
21 resulting in damages.

22 4.120 To the extent any state law limitations on damages sought by way of this
23 complaint are purported to exist, they are inconsistent with the compensatory, remedial, and/or
24

1 punitive purposes of 42 U.S.C. § 1983, and any such alleged state law limitations must be
2 disregarded in favor of permitting an award of the damages prayed for herein.

3 **V. CLAIMS**

4 5.1 Statements of fact in paragraphs 4.1–4.120 above are hereby re-incorporated as
5 if fully stated herein for purposes of each claim below.

6 **First Cause of Action**
7 **(Federal Law Claim – Violation of 42 U.S.C. § 1983 – Unreasonable Seizure)**

8 5.2 Plaintiff Estate of Ethan Austin Murray, through its Personal Representative
9 Justine L. Murray, asserts all available claims under 42 U.S.C. § 1983 for the deprivation of
10 Ethan Murray’s constitutional rights under the Fourth Amendment to the United States
11 Constitution.

12 5.3 Plaintiff Justine Murray, as the mother of Ethan Murray, asserts her own
13 individual claims under 42 U.S.C. § 1983 for the deprivation of the society and companionship
14 of her son in violation of the Fourteenth Amendment to the United States Constitution.

15 5.4 Plaintiff Mark Jentsch, as the father of Ethan Murray, asserts his own individual
16 claims under 42 U.S.C. § 1983 for the deprivation of the society and companionship of his son
17 in violation of the Fourteenth Amendment to the United States Constitution.

18 5.5 Defendant Wallace is liable for compensatory and punitive damages for directly
19 violating Ethan Murray’s constitutional rights under the Fourth Amendment to the United States
20 Constitution and indirectly violating Justine Murray’s and Mark Jentsch’s constitutional rights
21 under the Fourteenth Amendment to the United States Constitution, in violation of 42 U.S.C.
22 1983.

23 **Second Cause of Action**
24 **(Federal Law Claim – Violation of 42 U.S.C. § 1983 – Monell Liability)**

1 5.6 Defendant County is liable for its policy or custom of inadequately training
2 deputies such as Defendant Wallace to recognize mental health symptoms, to recognize subjects
3 in crisis, to de-escalate situations involving mental health and subjects in crisis, to provide
4 medical assistance to subjects who have been shot, and to follow department guidelines for foot
5 pursuits and the use of deadly force, foreseeably causing deprivations of Ethan Murray's right
6 to freedom from unreasonable seizure of his person, as guaranteed by the Fourth Amendment to
7 the Constitution and 42 U.S.C. § 1983.

8 5.7 Defendant County is liable for its widespread policy or custom of failing to
9 correct, tolerating, or encouraging employee attendance at "Warrior Mindset" and/or "Killology"
10 trainings that teach disregard for constitutional use of force, foreseeably creating a culture of
11 excessive force and disregard for de-escalation, foreseeably causing deprivations of Ethan
12 Murray's right to freedom from unreasonable seizure of his person, as guaranteed by the Fourth
13 Amendment to the Constitution and 42 U.S.C. § 1983.

14 5.8 Defendant County is liable for unreasonably adopting the conclusions of the
15 reckless and irresponsible investigation of Ethan Murray's death, thereby endorsing Defendant
16 Wallace's deprivation of Ethan Murray's constitutional rights as consistent with internal policy.

17 **Third Cause of Action**
18 **(State Law Claim – Tort of Negligence)**

19 5.9 Defendant Wallace is directly liable to Plaintiff Estate of Ethan Austin Murray,
20 and Plaintiffs Justine Murray and Mark Jentsch, for compensatory damages resulting from his
21 own breaches of the duty of reasonable care as the proximate cause of Ethan's wrongful death
22 under RCW 4.20.010 and RCW 4.24.010 and for all economic and non-economic damages
23 resulting therefrom.

1 7.5 Injunctive relief ordering Defendant County to expand its mental health field
2 response capabilities, utilize mental health professionals to assist officers responding to crises
3 involving persons with behavioral health issues, provide officers with preventive and follow-up
4 training on mental health field response best practices, and to apply for funding for these
5 measures under existing state laws RCW 36.28A.440 and RCW 36.28A.450;

6 7.6 Injunctive relief ordering Defendant County to obtain collective bargaining
7 concessions that require officers to submit written statements within 24-hours of deadly force
8 deployments as a condition of continued employment; and

9 7.7 Such other relief as the Court may deem just and equitable.

10 DATED this 29th day of July, 2021.

11 s/Braden Pence

12 Braden Pence, WSBA #43495
13 MAZZONE LAW FIRM, PLLC
14 3002 Colby Ave., Suite 302
15 Everett, WA 98201
16 Telephone: 425-259-4989
17 Facsimile: 425-259-5994
18 bradenp@mazzonelaw.com

19 Attorney for Plaintiff's Estate and
20 Justine Murray, individually

21 s/Fred P. Langer

22 Fred P. Langer, WSBA #25932
23 NELSON LANGER ENGLE, PLLC
24 12055 15th Avenue NE, Suite 100
25 Seattle, WA 98125
26 Telephone: (206) 623-7520
27 Facsimile: (206) 622-7068
28 Email: FredL@NLELaw.com

29 Attorney for Plaintiff's Estate and
30 Justine Murray, Individually

31 s/Kevin W. O'Connor

32 Kevin W. O'Connor, ISBA #6216627
33 (Pro Hac Vice pending)
34 O'CONNOR LAW FIRM, LTD
35 19 S. LaSalle St., Suite 1400
36 Chicago, IL 60603
37 Telephone: 312-906-7609
38 Facsimile: 312-263-1913
39 firm@koconnorlaw.com

40 Attorney for Plaintiff Mark Jentsch